of Chancery, or to a judge of any of the said courts.

Sub-sec. 6 of sec. 7 decides that the costs in appeal shall be in the discretion of the court, or of the judge appealed to, as the case may be.

From the best consideration I have been able to give the statutes, I do not think the learned judge of the County Court had the power to adjudicate on the claim of Munn, until it had been decided upon by the assignee. The decision of the assignee might be appealed from; but I cannot see any thing in the statute authorizing the judge to take up the claim in the first instance, and order a certain amount to be allowed. The order also directs the *costs* of the application to be paid by the assignee. The amount of Munn's account as claimed was not allowed him, and the assignee was quite justified in not allowing the whole amount, for it was not due him. The direction of the creditors was only to pay the amount of the wages, on his being satisfied with the correctness of the claim. Why he should have been directed to pay the costs does not clearly appear.

The direction by the creditors to pay these preference claims without putting them on the dividend sheet, would seem to deprive the other creditors or the insolvent of disputing the correctness of the amount allowed, which seems contrary to the spirit if not the letter of the statute.

The power given to the county judge to control the assignee (sub-sec. 16 of sec. 4) seems to be in the nature of giving him personal directions as to his duties, to be enforced in case of disobedience by imprisonment. I do not think, under this section of the statute, the judge had power to enforce his orders by directing judgment to be entered and execution issued against his goods. The judge might possibly compel the assignee who refused to obey his orders to pay the costs incurred in compelling obedience, by making it a condition that he should pay the costs before he should be considered as purged from his contempt. But to order an execution to issue to levy from him the debt allowed, which should certainly be paid out of the estate, as well as the costs, which, if he was wrong, should be paid by himself alone, does not seem quite consistent, nor authorized by the statute.

If the proceeding before the county judge was an appeal from the award of the assignee, there is this difficulty about it, that there had been no dividend sheet prepared and no amount allowed, and the assignee had not decided on Munn's claim. There was in fact at that time nothing to appeal from. If it could be considered as an appeal, and coming within sec. 7 of the statute, then the assignee might have appealed against the judge's decision, as the law stood when it was made. He could not appeal against the order of the judge under the statute 17 of last session, for at the time the order was made the statute had not passed.

The only remedy of the assignee appears to be to apply for the prohibition. It may be contended that the assignee, having applied to set aside the first order of the judge, voluntarily placed himself within the jurisdiction of the court or judge, and, having failed in his application, the power existed to compel him to pay the costs of resisting the application. This would be undoubtedly correct as a general principle where the judge had the power to make the first order, but it seems to me that the right of the judge to amerce the assignee in costs, depends on the question whether he could properly have made the original order, and that as to both orders and writs of execution the same rule must apply.

On the whole, I am of opinion the learned judge of the County Court had no authority to make the orders on which the rules of court were obtained and judgments entered, on which the *fi. fa.* against the goods of Cleghorn were issued, and that a writ should go to prohibit further proceedings in the said County Court of the county of Elgin, on the said two writs of execution, and on the rules of court, orders, judgments, &c. As this however is the first application on which this question has arisen, if the claimant, Munn, desires to take the opinion of the court on the subject, I will direct the assignee to declare in prohibition before the issuing of the writ.

## CORRESPONDENCE.

### *Act for Protection of Sheep.*

To the Editors of the Local Courts Gazette.

Gentlemen,—Among the several Acts recently passed by the Legislature for the benefit of the farming community generally, is one which provides for the protection of sheep (29 Vic. cap. 39,) and as the provisions of that Act will have to be carried into operation almost exclusively by laymen, it may not be deemed out of place for the information of your numerous readers to ask a few questions in respect to that Act.

The 7th section places the sheep and lambs evidently under greater protection than any other animal or even man, since by that section it is not necessary for the owner of the sheep or lamb that has been killed or injured by a dog to prove that that dog was mischievous, while in all other instances where a dog has attacked or injured a man or an animal, except a sheep or lamb, before damages can be recovered it must be proved that the owner or possessor of that dog had a knowledge of the mischievous propensities of such dog.

The 8th section authorises the owner of any sheep or lamb that may be killed or injured by any dog, to apply to two Justices of the Peace in the municipality, whose duty it shall be to enquire into the matter and view the sheep injured or killed, and who may examine witnesses upon oath in relation thereto.

1. Is this application to be made verbally?

2. Are the justices to travel to the place where the sheep were killed, or where else are